

### **REMARKS**

Prior to entry of the present Amendment, Claims 1-29 were pending. By this Amendment, claims 10, 19, 22, and 27 have been amended to clarify the claimed subject matter. Claim 16 has been cancelled without prejudice.

Support for the various amendments is indicated as follows:

- support for the amendment of claims 10, 19 and 27 to recite that the rear segment is pivotable relative to the rear window and rear pillars into a folded-state and the linkage mechanism slidably and pivotably couples the rear roof part to the vehicle chassis can be found, e.g., in original claim 9, paragraph [0037] and Fig. 6;
- support for amendment of claims 22 and 27 to recite guide rails can be found in paragraph [0033] and Figs. 2, 5 and 6 (guide rails clearly shown, although not numbered).

Additional support for the claim amendments is provided by the specification and figures and can be identified, if necessary. No new matter is added by this Amendment.

### **Drawing Objections**

The Examiner objected to the drawings as not showing every feature of the invention as specified in the claims. Specifically, the Examiner contends that the drawings do not show the rear, side elements lowerable into the chassis, as set forth in claims 16, 19 and 27. Without prejudice, Applicant has cancelled claim 16 and has amended claims 19 and 27 to remove the language to which the Examiner objected from the claims, rendering the objection to the drawings moot.

### **Claims Rejections under 35 U.S.C. §112**

The Examiner rejected claim 16 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Claim 16 has been cancelled rendering this rejection moot.

However, with respect to the rejection of previously-pending claim 16, Applicant respectfully notes that that claim 10 does not state that the rear, side elements are “removable”. Rather, claim 10 states that the rear, side elements are “detachable from the roof structure”.

Thus, in an embodiment in which a rear, side element is lowered into the vehicle chassis (instead

of, e.g., being removed entirely from the vehicle), the rear side element will still detach from the roof structure. Accordingly, it is believed that previously-pending claim 16 fully complied with 35 U.S.C. §112, first paragraph.

Moreover, it is noted for the record that, because none of the pending independent claims contain any restriction concerning whether the rear, side elements or side panels are, e.g., removable from or lowerable into the vehicle chassis, the cancellation of claim 16 (and the amendments of claims 19 and 27 to remove such features from these claims) should not be, in any way, interpreted as a waiver of claimed subject matter. All pending claims still cover all such embodiments.

The Examiner rejected claims 16 and 27-29 under 35 U.S.C. §112, second paragraph, as being indefinite. As noted above, claim 16 has been cancelled, rendering the rejection moot with respect to this claim.

With respect claims 27-29, Applicant has amended claim 27 in according to the Examiner's helpful suggestion. Accordingly, Applicant respectfully submits that claims 27-29 are definite and request reconsideration of the rejections under 35 U.S.C. §112, second paragraph.

### **Claims Rejections under the Prior Art**

The Examiner rejected claims 10-15, 17-21 and 23-29 under 35 U.S.C. §102 as being anticipated by Moscow Likhachev Car Wks ("MLCW"; Russian Patent Documents No. 472842). The Examiner rejected claim 16 under 35 U.S.C. §103 as being obvious over MLCW in view of Carr (U.S. Patent No. 1,826,922) and claim 22 as being obvious over MLCW in view of Prosser (German Patent Document No. DE 40 38 873 A1). A verified English translation of Prosser is filed herewith for consideration in the further examination of this application.

As noted above, claim 16 has been cancelled, rendering the rejection moot with respect to this claim. Reconsideration of the rejections with respect to the remaining claims is respectfully requested.

Applicants respectfully traverse these patentability rejections based upon the currently-amended independent claims 10, 19 and 27 for the below-discussed reasons.

MLCW does not teach or suggest, among other things, at least a rear segment being pivotably coupled to the rear pillars (frame) and the rear window, so that the rear segment can be

pivoted relative to the rear window into a folded-state. Also, MLCW does not teach or suggest at least that the rear roof part is pivotable into a receptacle in the vehicle for storage with the rear roof part being in a forwardly-displaced position and being in the folded-state. For at least these independent reasons, MLCW does not teach or suggest the subject matter defined by claims 10, 19 and 27.

Prosser does not cure the deficiencies of MLCW. Prosser fails to provide the necessary suggestion or teaching that would have motivated a person of ordinary skill in the art to selectively modify MLCW to provide the subject matter defined claims 10, 19 and 27.

In particular, it is noted that Prosser requires the roof, rear window and trunk lid to be very flat and have the same length (see page 2, lines 10-12 of the filed translation), whereas the corresponding features of MLCW are not particular flat nor do they have the same length.

Furthermore, in the alternate embodiment identified by the Examiner, Prosser discloses that the longitudinal movement of the rotational axis and the pivotable movement of the top about the rotational axis should occur simultaneously. Moreover, in Prosser, the folded top is to be stored level with the trunk lid and thus outside of a space located in the vehicle.

Thus, while Prosser discloses features which may be similar to those recited in claims 10, 19 and 27, it is respectfully submitted that a person of ordinary skill in the art would not have been motivated by Prosser to selectively utilize certain features of Prosser, but not other features, to modify the structure disclosed by MLCW so as to achieve the claimed invention. Rather, Prosser teaches away from the combination suggested by the Examiner.

For at least these independent reasons, MLCW and Prosser, alone or in combination do not teach or suggest the subject matter defined by independent claims 10, 19 and 27. Accordingly, independent claims 10, 19 and 27 are allowable. Claims 11-15 and 17-18, 20-26 and 28-29 depend from independent claims 10, 19 and 27, respectively, and are allowable for at least the same and other independent reasons.

**CONCLUSION**

It is believed that all rejections and objections made in the outstanding Office Action have been addressed and that, in view of the foregoing, the application is now in a condition for allowance. An early Notice of Allowance is earnestly solicited. If it will help to expedite the allowance of this application, a telephone call to the undersigned at the below-identified phone number is encouraged.

Respectfully submitted,

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